

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

JANICE HARGROVE WARREN

PLAINTIFF

v.

No. 4:19-cv-00655-BSM

CHARLES MCNULTY, et al.

DEFENDANTS

DEFENDANTS' SECOND MOTION IN LIMINE REGARDING PUNITIVE DAMAGES

Defendants, by their attorneys, Bequette, Billingsley & Kees, P.A., for their Second Motion in Limine Regarding Punitive Damages, state:

Plaintiff has pled punitive damages, alleging Defendants acted willful, malicious, intentional, and deliberate in its conduct toward her. Defendants previously moved to dismiss Plaintiff's punitive damages claim (ECF Doc. 27 and 28), but the Court did not specifically rule on the issue in its Order (ECF Doc. 90).

Defendants anticipate Plaintiff will attempt to elicit testimony from witnesses and/or introduce exhibits relating to punitive damages against Defendants, or that the jury should punish Defendants, and this should be excluded pursuant to the Federal Rules of Evidence. Defendants request the Court to instruct Plaintiff's counsel to refrain from inquiring of any witness as to the following matters and to refrain from making these statements in *voir dire* and opening and closing statements.

Plaintiff has failed to provide any facts to support the basis for any conclusion at law that Defendants were willful, malicious, intentional, or deliberate in their acts or inactions. The standard to meet a punitive award is rigorous, requiring Plaintiff to prove that: (1) the defendant knew or ought to have known, in light of the surrounding circumstances, that his or her conduct would naturally and probably result in injury or damage and that he or she continued the conduct

with malice or in reckless disregard of the consequences, from which malice may be inferred; or
(2) the defendant intentionally pursued a course of conduct for the purpose of causing injury or damage. Plaintiff has not met this heavy burden.

Accordingly, Plaintiff should be ordered that she make no reference to any punitive claim against Defendants, make no statement that the jury should “punish” Defendants, or in any way imply that damages should be assessed against Defendants in excess of those compensatory damages allowed by law.

Respectfully submitted,

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